



08 AUG 2007

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In re Application of	:	
MIRLACH et al.	:	
Application No.: 10/574,389	:	DECISION ON PETITION
PCT No.: PCT/EP2004/010109	:	
Int. Filing Date: 10 September 2004	:	UNDER
Priority Date: 02 October 2003	:	
Attorney Docket No.: 081551-000000US	:	37 CFR 1.497(d)
For: EXHAUST SYSTEM FOR AN	:	
INTERNAL COMBUSTION ENGINE	:	

This decision is in response to applicants' petition under 37 CFR 1.497(d) filed in the United States Patent and Trademark Office (USPTO) on 12 April 2007.

BACKGROUND

On 10 September 2004, applicants filed international application PCT/EP2004/010109, which designated the United States and claimed a priority date of 02 October 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 14 April 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 03 April 2006 (02 April being a Sunday).

On 30 March 2006, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 13 February 2007, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage were required.

On 12 April 2007, applicants filed the instant petition under 37 CFR 1.497(d). The petition was accompanied by a statement by Bjoern Koch, a declaration of inventors, two consent of assignee statements, two statements under 3.73(b), and the surcharge under 37 CFR 1.492(h).

DISCUSSION

37 CFR 1.497(d), provides:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or if a change to the inventive entity has been effected under PCT Rule 92^{bis} subsequent to the execution of any oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such oath or declaration, applicant must submit:

(1) A statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in Sec. 1.17(i); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see Sec. 3.73(b) of this chapter); and

(4) Any new oath or declaration required by paragraph (f) of this section.

Item (1)-(3) have been satisfied.

As to item (4), a new declaration is not required by 37 CFR 1.497(f) in the instant situation.

The declaration of inventors filed 12 April 2007 is in compliance with 37 CFR 1.497(a)-(b).

CONCLUSION

The request under 37 CFR 1.497(d) is **GRANTED** for the reasons set forth above.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application in accordance with this decision including processing the application in the name of Robert Mirlach and Bjoern Koch as inventors.



Daniel Stemmer

Legal Examiner

PCT Legal Affairs

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Legal Administration

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